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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NIKOLA LUKAJ, JOSEPH POTENTE, and
DIANA O'NEILL,

Plaintiffs,

-against-

PHILIP AMICONE, individually, EDMUND
HARTNETT, individually, JOHN A. LISZEWSKI,
individually, JOHN FLEMING, individually, DAVID
SIMPSON, individually, LAWRENCE A. PORCARI,
Jr., CITY OF YONKERS, New York, PAUL WOOD,
individually, POLICE OFFICERS JOHN DOES #1 to
#20, individually, and SANITATION WORKERS #1 to
#20, individually,

Defendants.

ECF Case

07 Civ. 8184 (CLB)

**NOTICE OF
MOTION TO DISMISS**

PLEASE TAKE NOTICE, that upon the Declaration of Andrew B. Zinman dated October 15, 2007, the Declaration of Andrew B Zinman and Memorandum of Law both dated September 26, 2007, and all other papers filed in this proceeding, Defendant Lawrence A. Porcari, Jr. ("Porcari") will move before Honorable Charles L. Brieant, United States District Court, Southern District of New York, 300 Quarropas Street, White Plains, New York, on November 9, 2007 at 10 a.m. or as soon thereafter as counsel can be heard, for an order dismissing Plaintiffs' Complaint dated September 19, 2007 (the "Complaint") as and against Porcari pursuant to Federal Rule of Civil Procedure 12(b)(6) upon the ground that the Complaint

fails to state a cause of action upon which relief can be granted because Porcari is entitled to absolute and/or qualified immunity.

Dated: White Plains, New York
October 15 2007

THACHER PROFFITT & WOOD LLP
Attorneys for Defendants

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